

TOWN OF DAVIE

TOWN COUNCIL AGENDA REPORT

TO: Mayor and Councilmembers

FROM/PHONE: Mark A. Kutney, AICP, Development Services Director/ (954) 797-1101

PREPARED BY: Ingrid Allen, Planner II

SUBJECT: Quasi Judicial Hearing: Variance, V 10-1-06 Lessard, 8005 SW 29th Street, Generally located a quarter of mile west of University Drive approximately 290 feet north of SW 30th Street.

AFFECTED DISTRICT: 2

TITLE OF AGENDA ITEM: V 10-1-06 Lessard, 8005 SW 29th Street, (R-3)

REPORT IN BRIEF: The petitioner's request is to reduce the required side setback of the R-3, Low Density Dwelling District, from 15' to 7.1' in order to accommodate the replacement of a pool screen enclosure destroyed by Hurricane Wilma in 2005.

The petitioner's intent is to replace the destroyed pool screen enclosure at the same dimensions and placement as the one that previously surrounded the pool area. Both the pool and original screen enclosure were approved by the Town of Davie on June 7, 1988. The subject property, at approximately 10,288 square feet, is a legal nonconforming lot being that it does not meet the minimum lot area of 12,000 square feet.

PREVIOUS ACTIONS: none

CONCURRENCES: At the January 10, 2007 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to approve. (Motion carried 5-0).

FISCAL IMPACT: not applicable

Has request been budgeted? n/a

RECOMMENDATION(S): Staff finds the subject application complete and suitable for transmittal to Town Council for further consideration.

Attachment(s): Justification letter, Survey, Letters from adjacent property owners, Photos of damaged screen enclosure, Future Land Use Plan Map, Zoning and Aerial Map

Applicant Information

Name: Deborah Lessard
Address: 8005 SW 29th Street
City: Davie, FL 33329
Phone: (954) 424-3199

Date of Notification:	January 3, 2007	Number of Notifications:	96
Application Request:	Variance FROM: Section 12-81 (A) of the Land Development Code, which requires a minimum 15’ side setback from the property line in the R-3, Low Density Dwelling District. TO: Reduce the minimum to a 7.1’ east side setback from the property line.		
Address/Location:	8005 SW 29 th Street/Generally located a quarter of mile west of University Drive approximately 290 feet north of SW 30 th Street.		
Future Land Use Plan Map Designation:	Residential (3 DU/AC)		
Zoning:	R-3, Low Density Dwelling District		
Existing Use:	Single-family residential dwelling unit		
Proposed Use:	Single-family residential dwelling unit		
Parcel Size:	Approximately 10,288 square feet		

Surrounding Uses:

North: Golf course

South: Single family dwelling

East: Single family dwelling

West: Single family dwelling

North: Commercial Recreation District (CR)
South: R-3, Low Density Dwelling District
East: R-3, Low Density Dwelling District
West: R-3, Low Density Dwelling District

Zoning History

Plat History: The Plat, “Arrowhead Golf and Tennis Club”, was approved by the Board of Commissioners of Broward County on April 10, 1973 prior to incorporation into the Town.

Application Details

The petitioner is requesting a variance from Section 12-81 (A) of the Land Development Code, which requires a minimum 15’ side setback from the property line in the R-3, Low Density Dwelling District, to reduce the minimum to a 7.1’ east side setback from the property line in order to accommodate the replacement of a pool screened enclosure destroyed by Hurricane Wilma (see Exhibit 4). It is the petitioner’s intent to replace the destroyed screen enclosure at the same dimensions and placement as the one that previously surrounded the pool.

Applicable Codes and Ordinances

DIVISION 2. GENERAL REGULATIONS

Land Development Code §12-309 of the Land Development Code, review for variances.

Land Development Code §12-81 (A) Conventional Single Family Development Standards, R-3, Low Density Dwelling District, requires the following minimums: lot area of 12,000 square feet, 100’ frontage, 30’ front setback, 15’ side setbacks, 25’ rear setback, 35’ maximum building height, and 40 percent maximum building coverage.

Land Development Code §12-33 (A) (2) Accessory Uses and Structures: In residential districts all accessory uses, storage sheds, and accessory buildings up to one hundred fifty (150) square feet in area, shall be located at least five (5) feet from any plot line and at least fifteen (15) feet from any street line. All accessory buildings and structures shall not exceed one (1) story or twelve (12) feet in height except in the RR, AG and A-1 districts. Storage sheds, and accessory buildings and structures over one hundred fifty (150) square feet in area shall be subject to the limitations on location of a building and shall not be placed in any required yard.

Land Development Code §12-33 (A) (7) (b) Accessory Uses and Structures: In residential districts, the location of accessory swimming pools shall be subject to the following regulations: Unenclosed pools or screen enclosed pools may be placed in a required rear yard subject to the limitations below, but shall not be placed in a required front, side, or street side yard;

Land Development Code §12-33 (A) (8) Accessory Uses and Structures: Swimming pools; enclosures required: (a) No public or private swimming pool shall hereafter be erected within the boundaries of the town unless the same be enclosed by a fence as herein provided. Any person, firm or corporation desiring to erect such a pool and fence must first obtain a permit from the town building department before commencing construction. (b) The fence shall take the form of a wooden fence, a wire fence, a rock wall, a concrete block wall or other material, so as to enable the owner to blend the same with the style of architecture planned or in existence on the property. The minimum height of said fence shall not be less than five (5) feet. A screened-in patio area completely enclosing the pool shall constitute compliance with this section of this regulation.

DIVISION 5. NONCONFORMING USES AND STRUCTURES

Land Development Code Sec. 12-39 Nonconforming buildings and structures. The lawful existence of a structure or building at the effective date of adoption of these regulations, although such structure or building does not conform to the property development regulations of these regulations

for minimum lot area and dimension, minimum yard setback requirements, maximum building height, total floor area, lot coverage and minimum floor area requirements or other characteristics of the structure, or its location on the lot, may be continued so long as it remains otherwise lawful, subject to the following provisions:

(2) Should such structure or building be destroyed by any means to an extent of more than twenty (20) percent of its assessed value at the time of destruction, as determined by the Broward County Property Appraiser, it shall not be reconstructed except in conformity with the provisions of these regulations and any other applicable regulations.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 5. This Planning Area is bound by Nova Drive on the north, University Drive on the east, and Nob Hill Road on the west. The southern limits are SW 36 Street, on the western portion. This planning area is comprised of residential uses developed at a density of three to 22 dwelling units per acre and commercial development, existing and proposed, along the University Drive and Orange Drive corridors. The Pine Island Ridge, classified as environmentally sensitive, has been preserved within this planning area.

Broward County Land Use Plan: The subject site falls within Flexibility Zone 99-.

Applicable Goals, Objectives & Policies: *Future Land Use Element, Objective 17: Land Use Compatibility and Community Appearance, Policy 17-3:* Each development proposal shall be reviewed with respect to its compatibility with adjacent existing and planned uses.

Staff Analysis

The petitioner's request is to reduce the required side setback of the R-3, Low Density Dwelling District, from 15' to 7.1' in order to accommodate the replacement of a pool screen enclosure destroyed by Hurricane Wilma (see Exhibit 4). The petitioner is proposing to replace the destroyed screen enclosure at the same dimensions and placement as the one that previously surrounded the pool. The pool and original screen enclosure were approved by the Town of Davie on June 7, 1988 (permit # 88-0912). A four (4) foot fence currently encloses the existing swimming pool on the subject property. However, according the Land Development Code, Section 12-33 (A) (8), the minimum height of the fence enclosing a swimming pool shall not be less than (5) feet. Rather than replacing the existing fence to meet the minimum height requirement of five (5) feet, the petitioner wishes to obtain a variance to replace the destroyed pool screen enclosure.

The existing living area of 2,184 square feet is below the maximum building coverage of forty (40) percent or 4,115 square feet of building permitted on this site. The lot size, at approximately 10,288 square feet, does not meet the minimum lot area of 12,000 square feet for the R-3 Low Density Dwelling district and is therefore considered a legal nonconforming lot. It is the petitioner's intent to obtain a variance in compliance with the Town's Land Development Code, Section 12-309 (A). In addition, the petitioner has submitted letters of approval from adjacent property owners to the immediate east and west of the subject property (see Exhibit #3).

Staff Findings of Fact

Variances:

Section 12-309(B) (1):

The following findings of facts apply to the variance request:

- (a) There are special circumstances or conditions applying to the land or building for which the variance is sought;

The petitioner's request is to replace a pool screen enclosure destroyed by Hurricane Wilma. The petitioner proposes to replace the screen enclosure at the same dimension and placement as the previous screen enclosure which was in line with the existing pool patio and porch.

which circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district;

The required 15' side setback for single-family development in the R-3, Low Density Dwelling District applies equally to properties within this zoning district.

and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variances are sought;

The parcel is being reasonably used now without a variance. However, it is the petitioner's intent to replace a pool screen enclosure that was originally constructed in line with the existing patio and porch. The prior pool screen enclosure was approved by the Town of Davie based on the side setbacks requirements applicable at the time of construction.

and that alleged hardship is not self-created by any person having an interest in the property.

The need for the variance was not created by the owner's desire for a pool screen enclosure but instead was created as a result of the destruction of a previously existing pool screen enclosure caused by Hurricane Wilma. The prior pool screen enclosure was approved by the Town of Davie based on the side setbacks requirements applicable at the time of construction. It is the petitioner's intent to replace the screen enclosure at the same dimension and placement as the previous screen enclosure which was in line with the existing pool patio and porch.

- (b) The granting of the variance is necessary for the reasonable use of the land or building and that the variance as requested is the minimum variance that will accomplish this purpose.

The variance request is the minimum needed to accomplish the proposed pool screen enclosure.

- (c) Granting of the requested variance will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The intent of the Land Development Code is to allow an interpretation to be made where there is a just balance between the rights of the landowner and all others who will be affected by that person's proposal. Allowing the side setback to be reduced from 15' to 7.1' in order to replace a pool screen enclosure may not be detrimental to the adjacent properties being that the proposed screen enclosure will be constructed at the same dimension and placement as the previous screen enclosure which was in place since 1988. In addition, the petitioner has submitted letters of approval from adjacent property owners to the immediate east and west of the subject property (see Exhibit #3).

Staff Recommendation

Staff finds the subject application complete and suitable for transmittal to the Planning and Zoning Board and Town Council for further consideration.

Planning and Zoning Board Recommendation

At the January 10, 2007 Planning and Zoning Board meeting, Mr. Stevens made a motion, seconded by Vice-Chair McLaughlin, to approve. (Motion carried 5-0).

Town Council Action

Exhibits

1. Justification letter
1. Survey
2. Letters from adjacent property owners
3. Photos of damaged screen enclosure
4. Future Land Use Plan Map
5. Zoning and Aerial Map

Prepared by: _____

Reviewed by: _____

DEBORAH COURTNEY LESSARD

October 18, 2006

Planning and Zoning Board
and Town Council
Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

Dear Sir or Madam:

On **October 24, 2006**, Hurricane Wilma surprised us. The degree of damage in our neighborhood was extensive. Our home sustained injury from both wind and water. **The screened enclosure surrounding our pool was destroyed.**

After much thought and deliberation, we decided to replace the screen enclosure at the same dimensions and placement as the one that previously surrounded our pool and patio.

Our application for a permit - to do this legally - was rejected.

This screen enclosure had been there when we purchased the home in 1995. It had been legally permitted and constructed according to code.

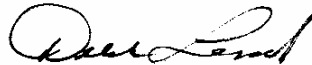
Our property was **rezoned in 2002**. We now have R-3 zoning which requires a 15-foot side setback. The houses were all built within 7-8 feet of the property line. Our pool and patio, and the pre-existing screen was 7-8 feet from the property line.

I am requesting a variance based upon special circumstances and to comply with Life Safety Codes pertaining to swimming pool enclosures. Land Development Code 12-33. (8), Code of Ordinances, Town of Davie, Florida.

I believe that replacing a preexisting structure following a disaster such as Wilma should be considered a special circumstance. I also believe that when an area is rezoned pre-existing structures should be exempt from the new code. I believe that replacing this screen enclosure will serve the public welfare and actually diminish a life safety hazard.

I would like to thank you all of you - for your time and consideration in the deliberation of this matter. If there is any other information that you require, or if there are additional questions, you may have - please do not hesitate to contact me.

Sincerely,



Deborah Courtney Lessard

8005 SW 29TH STREET, • DAVIE, FLORIDA • 33328
PHONE: 954-424-3199 • FAX: 954-424-3930

PETER BLANDINO SR
3600 S. STATE ROAD 7, SUITE 261
MIRAMAR, FL 33023 (954-987-6644)

BOUNDARY SURVEY

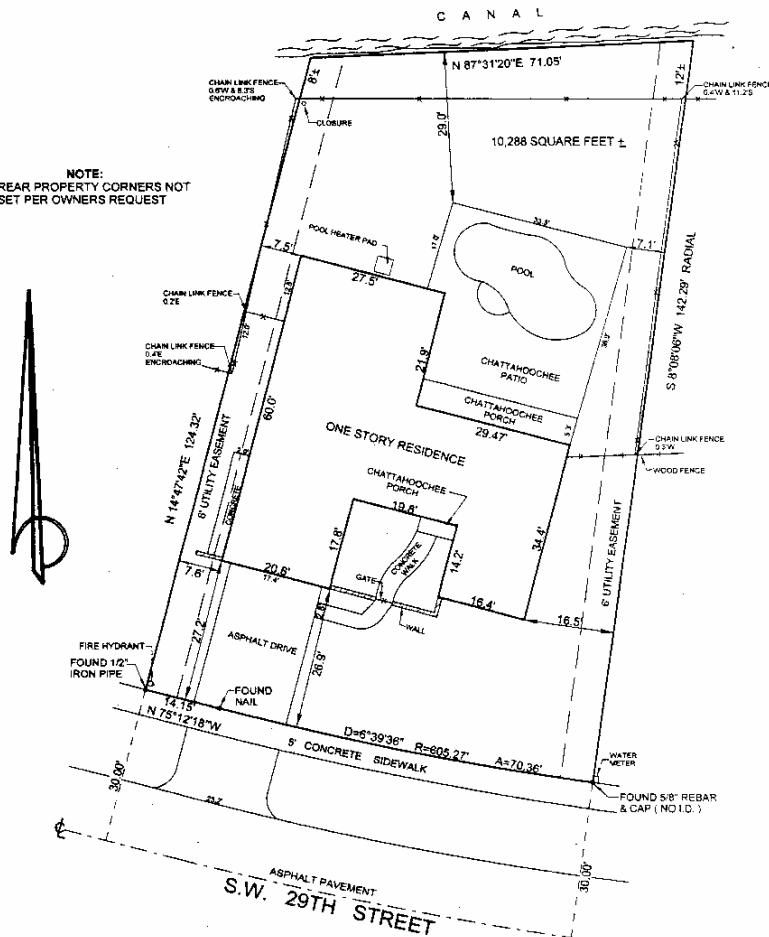
06-5316

LEGAL DESCRIPTION: Lot 10, Block 1, ARROWHEAD GOLF AND TENNIS CLUB, according to the Plat thereof, as recorded in Plat Book 78, Page 47, of the Public Records of Broward County, Florida.

ADDRESS:
8005 S.W. 29th Street
Davie, Florida 33329

CERTIFIED TO: Deborah C. Lessard

NOTE:
REAR PROPERTY CORNERS NOT
SET PER OWNERS REQUEST



SQUARE FOOTAGE OF LOT ADDED 12/9/06

Underground locations and/or underground encroachments, if any, are not shown unless otherwise indicated. This survey was not abstracted for easements and/or right-of-way of record. Elevations are relative to National Geodetic Vertical Datum of 1929.

Benchmark: MANHOLE CENTERLINE SW 29TH ST. & E. LINE OF RESIDENCE
8005 (ELEVATION ± 6.53')

Bearings based on: PLAT, CENTERLINE S.W. 29TH STREET (N78°12'18"W)

Drawn by A.P.B. Checked by P.B.S. Scale 1" = 20'

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

Dated this 19th day of AUGUST 2006 A.D.

PETER BLANDINO SR.
Surveyor and Mapper No. LS3487
State of Florida

CATHERINE AND JOSEPH GEORGIANNA

November 3, 2006

Planning and Zoning Board
and Town Council
Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

To whom it may concern,

Our names are Catherine and Joseph Georgianna. We reside at 8003 SW 29th Street, Davie, Florida. We have owned and lived in this home for eleven years.

We are aware that the Lessard family of 8005 SW 29th Street, Davie would like to replace the screen enclosure around their pool and patio. Our property is adjacent to the Lessard's property on the east side where the screen would be the closest to. We understand that it will be replaced in the same location and manner as it existed for the 17 years preceding Hurricane Wilma.

We have no objections to the issuance of a variance for the permit to allow them to do so.

Sincerely,



Cathy Georgianna



8003 SOUTHWEST TWENTY NINTH STREET, DAVIE FLORIDA 33328

November 4, 2006

Planning and Zoning Board
and Town Council Members

Town of Davie
6591 Orange Drive
Davie, FL 33314-3399

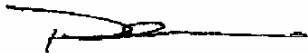
To whom it may concern,

We reside at 8007 SW 29th Street, Davie, Florida. We have owned and lived in this home for almost 2 years.

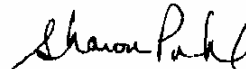
We are aware that the Lessard family of 8005 SW 29th Street, Davie would like to replace the screen enclosure that was destroyed after Hurricane Wilma. Our property is adjacent to the Lessard's property to the west. We understand that the repaired screen will be placed in the same location as the prior patio and pool enclosure - as it existed for the past 17 years.

We have no objections to the issuance of a variance for the permit to allow them to do so.

Sincerely,

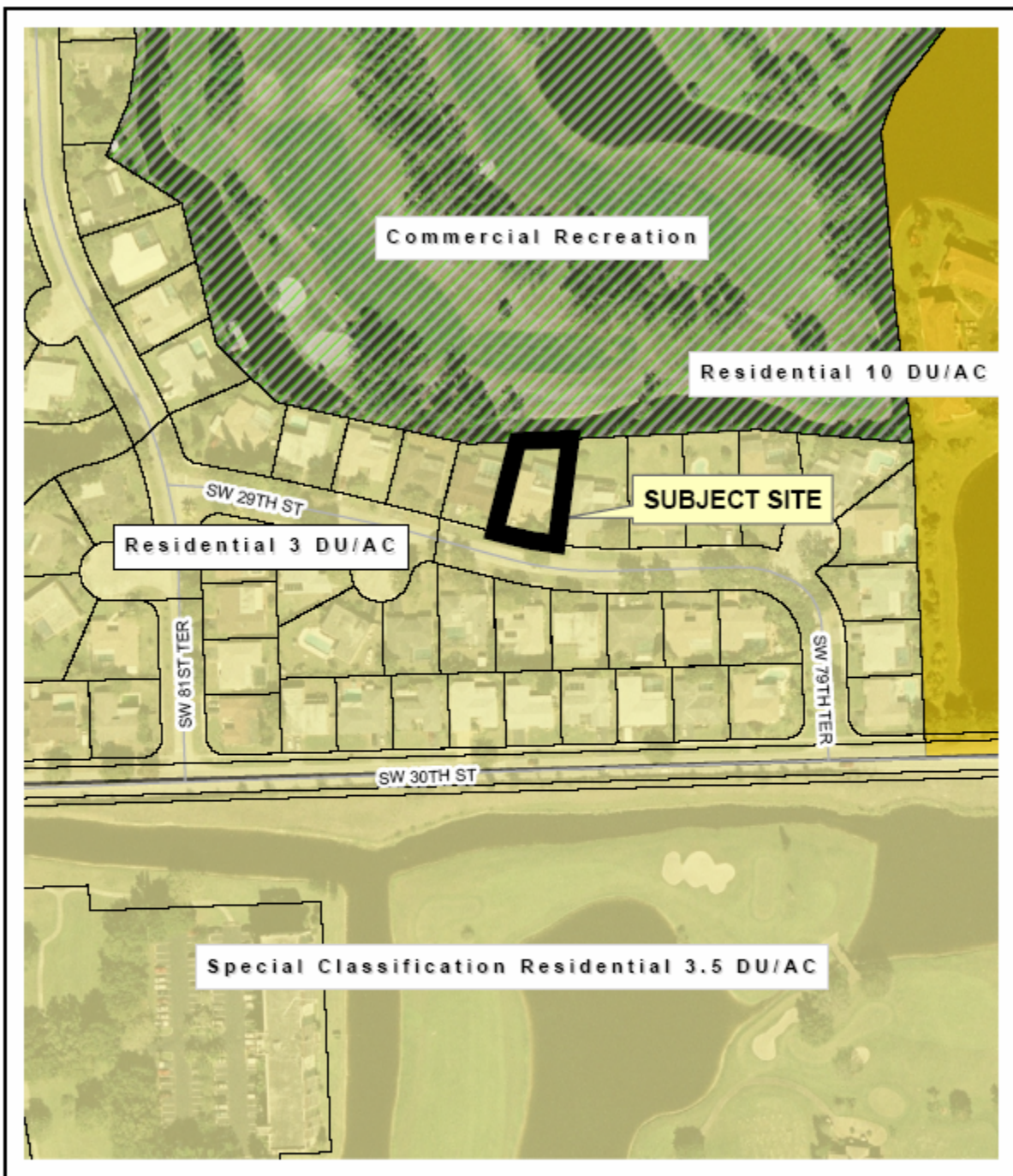


Robert Correa



Sharon Puhl





Date Flown:
12/2004



Prepared by the Town of Davie GIS Division

Variance
V 10-1-06
Future Land Use Map

Prepared by: ID
Date Prepared: 12/13/06



Date Flown:
12/2004



Prepared by the Town of Davie GIS Division

Variance V 10-1-06 Zoning and Aerial Map

Prepared by: ID
Date Prepared: 12/13/06

* * * * *

THIS PAGE
INTENTIONALLY
LEFT BLANK

* * * * *